

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
KiOR, INC.,	:	BK No. 14-12514 (CSS)
	:	
Debtor.	:	
	:	
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KiOR LIQUIDATING TRUST,	:	
	:	
Appellant,	:	
	:	
v.	:	C. A. No. 20-1489-LPS
	:	
MARD, INC., f/k/a KiOR, Inc.,	:	BAP Bo. 20-00051
	:	
Appellee.	:	

RECOMMENDATION

At Wilmington this **30th** day of **November, 2020**.

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included information from counsel, to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, the issues involved in this case are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process.

Although the parties have not engaged in a formal mediation or other ADR process, they have conferred, and believe that mediation in this matter is not appropriate. Further, as a result of their conference, Appellee Mard, Inc f/k/a KiOR, Inc.

informed KTL's counsel that it intends to file a motion to dismiss the appeal. The parties request that merits briefing be stayed pending the resolution of the motion to dismiss. Should the motion to dismiss be unsuccessful, the parties will further confer and agree to a briefing schedule for the appeal on the merits. Therefore, the parties request that the following briefing schedule be entered on the motion to dismiss:

Mard's Motion to Dismiss/Opening Brief	December 21, 2020
KLT's Response	January 25, 2021
Mard's Reply Brief	February 8, 2021

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court, which will initially involve Appellee Mard's motion to dismiss. No objections are anticipated pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1, since this Recommendation are consistent with the parties' requests..

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng
Chief U.S. Magistrate Judge Mary Pat Thyng